

HOUSE BILL 623

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Edward C. Sandoval

AN ACT

AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL PROJECTS GENERAL OBLIGATION BONDS TO MAKE CAPITAL EXPENDITURES FOR SENIOR CITIZEN FACILITY IMPROVEMENTS AND ACQUISITIONS, FOR HIGHER EDUCATION CAPITAL IMPROVEMENTS AND SUPPLEMENTAL LIBRARY RESOURCES, FOR WATER PROJECT IMPROVEMENTS, FOR PUBLIC LIBRARY ACQUISITIONS, FOR PUBLIC SCHOOL LIBRARY BOOKS AND EQUIPMENT, FOR OTHER STATE CAPITAL EXPENDITURES AND FOR PUBLIC SCHOOL EDUCATIONAL TECHNOLOGY; PROVIDING FOR A TAX LEVY FOR PAYMENT OF PRINCIPAL OF, INTEREST ON AND CERTAIN COSTS RELATED TO THE BONDS; REQUIRING APPROVAL OF THE REGISTERED VOTERS AT THE 2006 GENERAL ELECTION OF THE STATE; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "2006 Capital Projects General Obligation Bond Act".

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1 Section 2. PURPOSE.--For the purpose of providing funds
2 for capital expenditures as authorized in the 2006 Capital
3 Projects General Obligation Bond Act, general obligation
4 indebtedness of the state is authorized for the purposes and in
5 the amounts set forth in Section 10 of that act.

6 Section 3. BOND TERMS.--

7 A. The state board of finance, except as limited by
8 the 2006 Capital Projects General Obligation Bond Act, shall
9 determine the terms, covenants and conditions of bonds issued
10 pursuant to that act, including but not limited to:

11 (1) date or dates of issue, denominations and
12 maturities;

13 (2) principal amounts;

14 (3) rate or rates of interest; and

15 (4) provisions for redemption, including
16 premiums, registration and refundability, whether the bonds are
17 issued in one or more series and other covenants relating to
18 the bonds and the issuance thereof.

19 B. The bonds shall be in such form as the state
20 board of finance determines with an appropriate series
21 designation and shall bear interest payable as set forth in the
22 resolution of the state board of finance.

23 C. Payment of the principal of the bonds shall
24 begin not more than two years after the date of their issuance,
25 and the bonds shall mature not later than ten years after the

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1 date of their issuance. Both principal and interest shall be
2 payable in lawful money of the United States at the office of
3 the paying agent within or without the state as the state board
4 of finance may direct.

5 D. The bonds shall be executed with the manual or
6 facsimile signature of the governor or the state treasurer, and
7 the seal or a facsimile of the seal of the state shall be
8 placed on each bond, except for any series of bonds issued in
9 book entry or similar form without the delivery of physical
10 securities.

11 E. The bonds shall be issued in accordance with the
12 provisions of the 2006 Capital Projects General Obligation Bond
13 Act, the Supplemental Public Securities Act and the Uniform
14 Facsimile Signature of Public Officials Act and may be issued
15 in accordance with the Public Securities Short-Term Interest
16 Rate Act.

17 F. The full faith and credit of the state is
18 pledged for the prompt payment when due of the principal of and
19 interest on all bonds issued and sold pursuant to the 2006
20 Capital Projects General Obligation Bond Act.

21 Section 4. EXPENDITURES.--The proceeds from the sale of
22 the bonds shall be expended solely for providing money to be
23 distributed for the purposes and in amounts not to exceed the
24 amounts set forth in Section 10 of the 2006 Capital Projects
25 General Obligation Bond Act and to pay expenses incurred under

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1 Section 6 of that act. Any proceeds from the sale of the bonds
2 that are not required for the purposes set forth in Sections 6
3 and 10 of that act shall be used for the purpose of paying the
4 principal of and interest on the bonds.

5 Section 5. SALE.--The bonds authorized under the 2006
6 Capital Projects General Obligation Bond Act shall be sold by
7 the state board of finance at such time and in such manner and
8 amounts as the board may elect. The bonds may be sold at
9 private sale or at public sale, in either case at not less than
10 par plus accrued interest to the date of delivery. If sold at
11 public sale, the state board of finance shall publish a notice
12 of the time and place of sale in a newspaper of general
13 circulation in the state and may also publish the notice in a
14 recognized financial journal outside the state. The required
15 publications shall be made once each week for two consecutive
16 weeks prior to the date fixed for the sale, the last
17 publication thereof to be at least five days prior to the date
18 of the sale. The notice shall specify the amount,
19 denomination, maturity and description of the bonds to be
20 offered for sale and the place, date and hour at which the
21 sealed bids shall be received. At the time and place specified
22 in the notice, the state board of finance shall open the bids
23 in public and shall award the bonds to the bidder or bidders
24 offering the best price for the bonds. The state board of
25 finance may reject any or all bids and readvertise and may

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1 waive any irregularity in a bid. All bids, except that of the
2 state, shall be accompanied by a deposit of two percent of the
3 principal amount of the bonds in a form acceptable to the state
4 board of finance. The deposit of an unsuccessful bidder shall
5 be returned upon rejection of the bid. The state board of
6 finance may also sell the bonds or any part of the bonds to the
7 state treasurer or state investment officer. The state
8 treasurer or state investment officer is authorized to purchase
9 any of the bonds for investment. The bonds are legal
10 investments for any person or board charged with the investment
11 of any public funds and may be accepted as security for any
12 deposit of public money.

13 Section 6. EXPENSES.--The expenses incurred by the state
14 board of finance in or relating to the preparation and sale of
15 the bonds shall be paid out of the proceeds from the sale of
16 the bonds, and all rebate, penalty, interest and other
17 obligations of the state relating to the bonds and bond
18 proceeds under the Internal Revenue Code of 1986, as amended,
19 shall be paid from earnings on bond proceeds or other money of
20 the state legally available for such payments.

21 Section 7. TAX LEVY.--To provide for the payment of the
22 principal of and interest on the bonds issued and sold pursuant
23 to the provisions of the 2006 Capital Projects General
24 Obligation Bond Act, there shall be and there is hereby imposed
25 and levied during each year in which any of the bonds are

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1 outstanding an ad valorem tax on all property in the state
2 subject to property taxation for state purposes sufficient to
3 pay the interest as it becomes due on the bonds, together with
4 an amount sufficient to provide a sinking fund to pay the
5 principal of the bonds as it becomes due and, if permitted by
6 law, ad valorem taxes may be collected to pay administrative
7 costs incident to the collection of such taxes. The taxes
8 shall be imposed, levied, assessed and collected at the times
9 and in the manner that other property taxes for state purposes
10 are imposed, levied, assessed and collected. It is the duty of
11 all tax officials and authorities to cause these taxes to be
12 imposed, levied, assessed and collected.

13 Section 8. TREASURER--DUTIES.--The state treasurer shall
14 keep separate accounts of all money collected pursuant to the
15 taxes imposed and levied pursuant to the provisions of the 2006
16 Capital Projects General Obligation Bond Act and shall use this
17 money only for the purposes of paying the principal of and
18 interest on the bonds as they become due and any expenses
19 relating thereto.

20 Section 9. IRREPEALABLE CONTRACT--AUTHORITY FOR
21 ISSUANCE.--An owner of bonds issued pursuant to the provisions
22 of the 2006 Capital Projects General Obligation Bond Act may,
23 either at law or in equity, by suit, action or mandamus,
24 enforce and compel the performance of the duties required by
25 that act of any officer or entity mentioned in that act. The

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1 provisions of that act constitute an irrevocable contract with
2 the owners of any of the bonds issued pursuant to that act for
3 the faithful performance of which the full faith and credit of
4 the state is pledged. Without reference to any other act of
5 the legislature, the 2006 Capital Projects General Obligation
6 Bond Act is full authority for the issuance and sale of the
7 bonds authorized in that act, and such bonds shall have all the
8 qualities of investment securities under the Uniform Commercial
9 Code, shall not be invalid for any irregularity or defect in
10 the proceedings for the issuance and sale of the bonds and
11 shall be incontestable in the hands of bona fide purchasers or
12 holders thereof for value. All bonds issued under the
13 provisions of that act, and the interest thereon, are exempt
14 from taxation by the state and any subdivision or public body
15 thereof.

16 Section 10. PROJECTS.--The proceeds from the sale of
17 bonds issued under the provisions of the 2006 Capital Projects
18 General Obligation Bond Act shall be distributed as follows for
19 the purposes and in the amounts specified:

20 A. for senior citizen facility equipment,
21 improvements and construction, to the aging and long-term
22 services department:

23 (1) two million three hundred thousand dollars
24 (\$2,300,000) to fund facility repairs and improvements at
25 senior citizen centers statewide to comply with health and

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1 safety requirements of the Americans with Disabilities Act of
2 1990;

3 (2) two million five hundred thousand dollars
4 (\$2,500,000) to provide minor expansions and modifications to
5 address improved structural protection and other minor
6 renovation projects in senior citizen centers statewide;

7 (3) nine hundred thousand dollars (\$900,000)
8 to purchase equipment to prepare and serve meals for senior
9 citizen centers statewide; and

10 (4) five hundred thousand dollars (\$500,000)
11 to purchase equipment for senior centers statewide, including
12 heaters, air conditioning units, doors and floor coverings;

13 B. for institutions of higher learning, to the
14 higher education department:

15 (1) forty-seven million eight hundred thousand
16 dollars (\$47,800,000) for renovations and expansion, including
17 infrastructure improvements and improvements to comply with
18 health and safety requirements of the Americans with
19 Disabilities Act of 1990 at institutions of higher learning;
20 and

21 (2) fifteen million dollars (\$15,000,000) to
22 purchase supplemental library resources for institutions of
23 higher learning statewide;

24 C. for water projects statewide, to the water
25 project fund, twenty million dollars (\$20,000,000) to carry out

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1 the provisions of the Water Project Finance Act to ensure water
2 use efficiency, resource conservation and protection and fair
3 distribution and allocation of New Mexico's water resources for
4 beneficial purposes of use within the state;

5 D. for public library acquisitions statewide, to
6 the cultural affairs department:

7 (1) eighteen million dollars (\$18,000,000) to
8 purchase supplemental library resource acquisitions, including
9 books and equipment; and

10 (2) two million five hundred thousand dollars
11 (\$2,500,000) to purchase library books, equipment and other
12 library materials for the state library and the Angelico Chavez
13 history library;

14 E. for public school library books and equipment
15 statewide, to the public education department, eighteen million
16 dollars (\$18,000,000) to purchase library books, equipment and
17 library resources for eligible public school and juvenile
18 detention center libraries statewide. The secretary of public
19 education shall identify all eligible school libraries and
20 distribute these funds by providing a base amount of three
21 thousand dollars (\$3,000) and the balance on a per membership
22 basis;

23 F. for state facilities and equipment, to the
24 capital program fund, ten million dollars (\$10,000,000) to
25 renovate, repair, purchase equipment and make other capital

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1 improvements to state facilities statewide; and

2 G. for educational technology for public schools,
3 to the educational technology fund, five million dollars
4 (\$5,000,000) to purchase and install educational technology in
5 public schools statewide for the purpose of implementing the
6 provisions of the Technology for Education Act.

7 Section 11. ELECTION.--

8 A. Bonds issued pursuant to the 2006 Capital
9 Projects General Obligation Bond Act shall be submitted to the
10 registered voters of the state at the general election to be
11 held in November 2006, and, if they receive a majority of all
12 the votes cast thereon at such election, shall take effect upon
13 certification of the state canvassing board announcing the
14 results of such election. No bonds shall be issued or sold
15 under the 2006 Capital Projects General Obligation Bond Act
16 until the registered voters of this state have voted upon and
17 approved the bonds and property tax as provided in this
18 section. Any bonds issued under that act shall be issued
19 within thirty months from the date of such election.

20 B. The ballots used at the 2006 general election
21 shall contain substantially the following language:

22 (1) "The 2006 Capital Projects General
23 Obligation Bond Act authorizes the issuance and sale of senior
24 citizen facility improvement and construction bonds. Shall the
25 state be authorized to issue general obligation bonds in an

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1 amount not to exceed six million two hundred thirteen thousand
2 fifty-three dollars (\$6,213,053) to make capital expenditures
3 for certain senior citizen facility improvements and
4 construction projects and provide for a general property tax
5 imposition and levy for the payment of principal of, interest
6 on and expenses incurred in connection with the issuance of the
7 bonds and the collection of the tax as permitted by law?

8 For _____ Against _____";

9 (2) "The 2006 Capital Projects General
10 Obligation Bond Act authorizes the issuance and sale of higher
11 education capital improvement and acquisition bonds. Shall the
12 state be authorized to issue general obligation bonds in an
13 amount not to exceed sixty-two million nine hundred thirty-two
14 thousand two hundred eleven dollars (\$62,932,211) to make
15 capital expenditures for certain higher education capital
16 improvements and acquisitions and provide for a general
17 property tax imposition and levy for the payment of principal
18 of, interest on and expenses incurred in connection with the
19 issuance of the bonds and the collection of the tax as
20 permitted by law?

21 For _____ Against _____";

22 (3) "The 2006 Capital Projects General
23 Obligation Bond Act authorizes the issuance and sale of water
24 project improvement bonds. Shall the state be authorized to
25 issue general obligation bonds in an amount not to exceed

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1 twenty million forty-two thousand one hundred five dollars
2 (\$20,042,105) to make capital expenditures to ensure water use
3 efficiency, resource conservation and protection and fair
4 distribution and allocation of New Mexico's water resources for
5 beneficial purposes of use within the state and provide for a
6 general property tax imposition and levy for the payment of
7 principal of, interest on and expenses incurred in connection
8 with the issuance of the bonds and the collection of the tax as
9 permitted by law?

10 For _____ Against _____";

11 (4) "The 2006 Capital Projects General
12 Obligation Bond Act authorizes the issuance and sale of public
13 library acquisitions bonds. Shall the state be authorized to
14 issue general obligation bonds in an amount not to exceed
15 twenty million five hundred forty-three thousand one hundred
16 fifty-eight dollars (\$20,543,158) for certain public library
17 acquisitions and provide for a general property tax imposition
18 and levy for the payment of principal of, interest on and
19 expenses incurred in connection with the issuance of the bonds
20 and the collection of the tax as permitted by law?

21 For _____ Against _____";

22 (5) "The 2006 Capital Projects General
23 Obligation Bond Act authorizes the issuance and sale of public
24 school library acquisitions bonds. Shall the state be
25 authorized to issue general obligation bonds in the amount of

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1 eight million thirty-seven thousand eight hundred ninety-
2 five dollars (\$18,037,895) for certain public school library
3 acquisitions, equipment and resources and provide for a general
4 property tax imposition and levy for the payment of principal
5 of, interest on and expenses incurred in connection with the
6 issuance of the bonds and the collection of the tax as
7 permitted by law?

8 For _____ Against _____";

9 (6) "The 2006 Capital Projects General
10 Obligation Bond Act authorizes the issuance and sale of state
11 facility improvement and equipment bonds. Shall the state be
12 authorized to issue general obligation bonds in an amount not
13 to exceed ten million twenty-one thousand fifty-three dollars
14 (\$10,021,053) to make capital expenditures for state buildings
15 and provide for a general property tax imposition and levy for
16 the payment of principal of, interest on and expenses incurred
17 in connection with the issuance of the bonds and the collection
18 of the tax as permitted by law?

19 For _____ Against _____";

20 and

21 (7) "The 2006 Capital Projects General
22 Obligation Bond Act authorizes the issuance and sale of public
23 school educational technology bonds. Shall the state be
24 authorized to issue general obligation bonds in an amount not
25 to exceed five million ten thousand five hundred twenty-six

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1 dollars (\$5,010,526) to make capital expenditures for public
2 school educational technology acquisitions for public schools
3 statewide and provide for a general property tax imposition and
4 levy for the payment of principal of, interest on and expenses
5 incurred in connection with the issuance of the bonds and the
6 collection of the tax as permitted by law?

7 For _____ Against _____".

8 C. Each question set forth in this section includes
9 a specific work or object to be financed by the bonds. If any
10 such question is not approved by a majority vote of the
11 electorate at the state's 2006 general election, the issuance
12 of bonds for the work or object specified by the question shall
13 be excluded from and shall not be part of the 2006 Capital
14 Projects General Obligation Bond Act. The failure of a
15 question to be approved by the electorate at the 2006 general
16 election shall not affect those questions that are approved at
17 the election.

18 D. The secretary of state shall include the
19 submission of the capital projects general obligation bonds to
20 the people at the 2006 general election, and it shall be
21 included in the general election proclamation of each of the
22 county clerks. The secretary of state shall cause the 2006
23 Capital Projects General Obligation Bond Act to be published in
24 full in at least one newspaper in each county of the state, if
25 one be published therein, once each week, for four successive

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1 weeks next preceding the general election as required by the
2 constitution of New Mexico.

3 Section 12. ART IN PUBLIC PLACES.--Pursuant to Section
4 13-4A-4 NMSA 1978 and where applicable, the appropriations
5 authorized in the 2006 Capital Projects General Obligation Bond
6 Act include money for the art in public places fund.

7 Section 13. PROJECT SCOPE--EXPENDITURES--REVERSION.--

8 A. If an appropriation for a project authorized in
9 the 2006 Capital Projects General Obligation Bond Act is not
10 sufficient to complete all the purposes specified, the
11 appropriation may be expended for any portion of the purposes
12 specified in the appropriation. Expenditures shall not be made
13 for purposes other than those specified in the appropriation.

14 B. The state agencies and state institutions to
15 which money has been appropriated in the 2006 Capital Projects
16 General Obligation Bond Act shall be responsible for monitoring
17 the projects funded in that act to ensure compliance with the
18 constitution and laws of New Mexico, and shall cause to be
19 reverted any unexpended or unencumbered balance remaining at
20 the earlier of the third full fiscal year after issuance of the
21 bonds or the termination or completion of the specific project.
22 Reverted funds shall be deposited in the debt service fund
23 established by the state treasurer for the purpose of paying
24 the principal of and interest on the state's general obligation
25 bonds.

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Section 14. SEVERABILITY.--If any part or application of the 2006 Capital Projects General Obligation Bond Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Section 15. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.